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HOUSE BILL 1166

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State of Washington

66th Legislature

2019 Regular Session

**By** Representatives Orwall, Mosbrucker, Lovick, Griffey, Dolan, Doglio, Valdez, Wylie, Tarleton, Cody, Jenkins, Dent, Ortiz-Self, Van Werven, Stonier, Fitzgibbon, Fey, Walen, Bergquist, Leavitt, Macri, Kloba, and Stanford

Read first time 01/16/19. Referred to Committee on Public Safety.

1 AN ACT Relating to supporting sexual assault survivors; amending  
2 RCW 43.43.545, 43.101.272, and 70.125.090; amending 2018 c 299 s 921  
3 (uncodified); reenacting and amending RCW 9A.04.080; adding a new  
4 section to chapter 43.09 RCW; adding new sections to chapter 70.125  
5 RCW; providing expiration dates; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** 2018 c 299 s 921 (uncodified) is amended to read as  
8 follows:

9 (1)(a) The joint legislative task force on sexual assault  
10 forensic examination best practices is established for the purpose of  
11 reviewing best practice models for managing all aspects of sexual  
12 assault (~~(examinations)~~) investigations and for reducing the number  
13 of untested sexual assault examination kits in Washington state  
14 (~~(that were collected prior to the effective date of this section)~~).

15 (i) The caucus leaders from the senate shall appoint one member  
16 from each of the two largest caucuses of the senate.

17 (ii) The caucus leaders from the house of representatives shall  
18 appoint one member from each of the two largest caucuses of the house  
19 of representatives.

20 (iii) The president of the senate and the speaker of the house of  
21 representatives shall jointly appoint:

1 (A) One member representing each of the following:  
2 (I) The Washington state patrol;  
3 (II) The Washington association of sheriffs and police chiefs;  
4 (III) The Washington association of prosecuting attorneys;  
5 (IV) The Washington defender association or the Washington  
6 association of criminal defense lawyers;  
7 (V) The Washington association of cities;  
8 (VI) The Washington association of county officials;  
9 (VII) The Washington coalition of sexual assault programs;  
10 (VIII) The office of crime victims advocacy;  
11 (IX) The Washington state hospital association;  
12 (X) ~~((The Washington state forensic investigations council;~~  
13 ~~(XI) A public institution of higher education as defined in RCW~~  
14 ~~28B.10.016;~~  
15 ~~(XII) A private higher education institution as defined in RCW~~  
16 ~~28B.07.020; and~~  
17 ~~(XIII))~~ The office of the attorney general; and  
18 (XI) A sexual assault nurse examiner; and  
19 (B) Two members representing survivors of sexual assault.  
20 (b) The task force shall choose two cochairs from among its  
21 legislative membership. The legislative membership shall convene the  
22 initial meeting of the task force.  
23 (2) The duties of the task force include, but are not limited to:  
24 (a) Researching and determining the number of untested sexual  
25 assault examination kits in Washington state;  
26 (b) Researching the locations where the untested sexual assault  
27 examination kits are stored;  
28 (c) Researching, reviewing, and making recommendations regarding  
29 legislative policy options for reducing the number of untested sexual  
30 assault examination kits;  
31 (d) Researching the best practice models both in state and from  
32 other states for collaborative responses to victims of sexual assault  
33 from the point the sexual assault examination kit is collected to the  
34 conclusion of the investigation and prosecution of a case, and  
35 providing recommendations regarding any existing gaps in Washington  
36 and resources that may be necessary to address those gaps; ~~((and))~~  
37 (e) Researching, identifying, and making recommendations for  
38 securing nonstate funding for testing the sexual assault examination  
39 kits, and reporting on progress made toward securing such funding;

1 (f) Prior to the end of the moratorium under section 8 of this  
2 act, develop policies and submit recommendations on the storage,  
3 retention, and destruction of unreported sexual assault kits as well  
4 as protocols for engaging with survivors associated with unreported  
5 sexual assault kits;

6 (g) Monitoring implementation of state and federal legislative  
7 changes;

8 (h) Collaborating with the office of the attorney general to  
9 implement reforms pursuant to federal grant requirements; and

10 (i) Making recommendations for institutional reforms necessary to  
11 prevent sexual assault and improve the experiences of sexual assault  
12 survivors in the criminal justice system.

13 (3) Staff support for the task force must be provided by the  
14 senate committee services and the house of representatives office of  
15 program research.

16 (4) Legislative members of the task force must be reimbursed for  
17 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
18 members, except those representing an employer or organization, are  
19 entitled to be reimbursed for travel expenses in accordance with RCW  
20 43.03.050 and 43.03.060.

21 (5) The expenses of the task force must be paid jointly by the  
22 senate and the house of representatives. Task force meetings and  
23 expenditures are subject to approval by the senate facilities and  
24 operations committee and the house of representatives executive rules  
25 committee, or their successor committees.

26 (6) The first meeting of the task force must occur prior to  
27 October 1, 2015. The task force shall submit a preliminary report  
28 regarding its initial findings and recommendations to the appropriate  
29 committees of the legislature and the governor no later than December  
30 1, 2015.

31 (7) The task force must meet no less than twice annually.

32 (8) The task force shall report its findings and recommendations  
33 to the appropriate committees of the legislature and the governor by  
34 September 30, 2016, and by December 1st of (~~the following~~) each  
35 subsequent year.

36 (9) This section expires (~~June 30, 2019~~) December 31, 2021.

37 **Sec. 2.** RCW 9A.04.080 and 2017 c 266 s 9, 2017 c 231 s 2, and  
38 2017 c 125 s 1 are each reenacted and amended to read as follows:

1 (1) Prosecutions for criminal offenses shall not be commenced  
2 after the periods prescribed in this section.

3 (a) The following offenses may be prosecuted at any time after  
4 their commission:

5 (i) Murder;

6 (ii) Homicide by abuse;

7 (iii) Arson if a death results;

8 (iv) Vehicular homicide;

9 (v) Vehicular assault if a death results;

10 (vi) Hit-and-run injury-accident if a death results (RCW  
11 46.52.020(4)).

12 (b) Except as provided in (c) of this subsection, the following  
13 offenses shall not be prosecuted more than ten years after their  
14 commission:

15 (i) Any felony committed by a public officer if the commission is  
16 in connection with the duties of his or her office or constitutes a  
17 breach of his or her public duty or a violation of the oath of  
18 office;

19 (ii) Arson if no death results;

20 (iii) (A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is  
21 reported to a law enforcement agency within one year of its  
22 commission.

23 (B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported  
24 within one year, the rape may not be prosecuted more than three years  
25 after its commission;

26 (iv) Indecent liberties under RCW 9A.44.100(1)(b); (~~(e)~~)

27 (v) Attempted murder; or

28 (vi) Trafficking under RCW 9A.40.100.

29 (c) Violations of the following statutes, when committed against  
30 a victim under the age of eighteen, may be prosecuted up to the  
31 victim's thirtieth birthday: RCW 9A.44.040 (rape in the first  
32 degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a  
33 child in the first degree), 9A.44.076 (rape of a child in the second  
34 degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083  
35 (child molestation in the first degree), 9A.44.086 (child molestation  
36 in the second degree), 9A.44.089 (child molestation in the third  
37 degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or  
38 9.68A.040 (sexual exploitation of a minor).

39 (d) A violation of any offense listed in this subsection (1)(d)  
40 may be prosecuted up to ten years after its commission or, if

1 committed against a victim under the age of eighteen, up to the  
2 victim's thirtieth birthday, whichever is later:

3 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);

4 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a  
5 minor); or

6 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse  
7 of a minor).

8 (e) The following offenses shall not be prosecuted more than six  
9 years after their commission or their discovery, whichever occurs  
10 later:

11 (i) Violations of RCW 9A.82.060 or 9A.82.080;

12 (ii) Any felony violation of chapter 9A.83 RCW;

13 (iii) Any felony violation of chapter 9.35 RCW;

14 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
15 when accomplished by color or aid of deception;

16 (v) Theft from a vulnerable adult under RCW 9A.56.400; or

17 (vi) Trafficking in stolen property in the first or second degree  
18 under chapter 9A.82 RCW in which the stolen property is a motor  
19 vehicle or major component part of a motor vehicle as defined in RCW  
20 46.80.010.

21 (f) The following offenses shall not be prosecuted more than five  
22 years after their commission: Any class C felony under chapter 74.09,  
23 82.36, or 82.38 RCW.

24 (g) Bigamy shall not be prosecuted more than three years after  
25 the time specified in RCW 9A.64.010.

26 (h) A violation of RCW 9A.56.030 must not be prosecuted more than  
27 three years after the discovery of the offense when the victim is a  
28 tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

29 (i) No other felony may be prosecuted more than three years after  
30 its commission; except that in a prosecution under RCW 9A.44.115, if  
31 the person who was viewed, photographed, or filmed did not realize at  
32 the time that he or she was being viewed, photographed, or filmed,  
33 the prosecution must be commenced within two years of the time the  
34 person who was viewed or in the photograph or film first learns that  
35 he or she was viewed, photographed, or filmed.

36 (j) No gross misdemeanor may be prosecuted more than two years  
37 after its commission.

38 (k) No misdemeanor may be prosecuted more than one year after its  
39 commission.

1 (2) The periods of limitation prescribed in subsection (1) of  
2 this section do not run during any time when the person charged is  
3 not usually and publicly resident within this state.

4 (3) In any prosecution for a sex offense as defined in RCW  
5 9.94A.030, the periods of limitation prescribed in subsection (1) of  
6 this section run from the date of commission or (~~one~~) two years  
7 from the date on which the identity of the suspect is conclusively  
8 established by deoxyribonucleic acid testing or by photograph as  
9 defined in RCW 9.68A.011, whichever is later.

10 (4) If, before the end of a period of limitation prescribed in  
11 subsection (1) of this section, an indictment has been found or a  
12 complaint or an information has been filed, and the indictment,  
13 complaint, or information is set aside, then the period of limitation  
14 is extended by a period equal to the length of time from the finding  
15 or filing to the setting aside.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.09  
17 RCW to read as follows:

18 (1) After January 1, 2021, the auditor shall conduct a  
19 comprehensive performance audit of the statewide sexual assault  
20 tracking system under RCW 43.43.545 and the operations of the  
21 Washington state patrol crime laboratory with respect to processing  
22 sexual assault kits. In addition to other measures established by the  
23 auditor, the performance audit shall assess:

24 (a) Whether the Washington state patrol is operating the  
25 statewide sexual assault kit tracking system in accordance with RCW  
26 43.43.545 and best practices; and

27 (b) Whether the Washington state patrol crime laboratory has  
28 taken actions consistent with best practices, chapter 70.125 RCW, and  
29 related state budgetary requirements to address testing backlogs and  
30 otherwise improve efficiency and efficacy of sexual assault kit  
31 testing.

32 (2) The auditor shall complete the audit and publish a report  
33 with its findings no later than July 1, 2021.

34 (3) This section expires December 31, 2021.

35 **Sec. 4.** RCW 43.43.545 and 2016 c 173 s 2 are each amended to  
36 read as follows:

37 (1) The Washington state patrol shall create and operate a  
38 statewide sexual assault kit tracking system. The Washington state

1 patrol may contract with state or nonstate entities including, but  
2 not limited to, private software and technology providers, for the  
3 creation, operation, and maintenance of the system.

4 (2) The statewide sexual assault kit tracking system must:

5 (a) Track the location and status of sexual assault kits  
6 throughout the criminal justice process, including the initial  
7 collection in examinations performed at medical facilities, receipt  
8 and storage at law enforcement agencies, receipt and analysis at  
9 forensic laboratories, and storage and any destruction after  
10 completion of analysis;

11 (b) Designate sexual assault kits as unreported or reported for  
12 the purposes of section 8 of this act;

13 (c) Allow medical facilities performing sexual assault forensic  
14 examinations, law enforcement agencies, prosecutors, the Washington  
15 state patrol bureau of forensic laboratory services, and other  
16 entities (~~in the~~) having custody of sexual assault kits to update  
17 and track the status and location of sexual assault kits;

18 (~~e~~) (d) Allow victims of sexual assault to anonymously track  
19 or receive updates regarding the status of their sexual assault kits;  
20 and

21 (~~d~~) (e) Use electronic technology or technologies allowing  
22 continuous access.

23 (3) The Washington state patrol may use a phased implementation  
24 process in order to launch the system and facilitate entry and use of  
25 the system for required participants. The Washington state patrol may  
26 phase initial participation according to region, volume, or other  
27 appropriate classifications. All entities (~~in the~~) having custody  
28 of sexual assault kits shall fully participate in the system no later  
29 than June 1, 2018. The Washington state patrol shall submit a report  
30 on the current status and plan for launching the system, including  
31 the plan for phased implementation, to the joint legislative task  
32 force on sexual assault forensic examination best practices, the  
33 appropriate committees of the legislature, and the governor no later  
34 than January 1, 2017.

35 (4) The Washington state patrol shall submit a semiannual report  
36 on the statewide sexual assault kit tracking system to the joint  
37 legislative task force on sexual assault forensic examination best  
38 practices, the appropriate committees of the legislature, and the  
39 governor. The Washington state patrol may publish the current report  
40 on its web site. The first report is due July 31, 2018, and

1 subsequent reports are due January 31st and July 31st of each year.

2 The report must include the following:

3 (a) The total number of sexual assault kits in the system  
4 statewide and by jurisdiction;

5 (b) The total and semiannual number of sexual assault kits where  
6 forensic analysis has been completed statewide and by jurisdiction;

7 (c) The number of sexual assault kits added to the system in the  
8 reporting period statewide and by jurisdiction;

9 (d) The total and semiannual number of sexual assault kits where  
10 forensic analysis has been requested but not completed statewide and  
11 by jurisdiction;

12 (e) The average and median length of time for sexual assault kits  
13 to be submitted for forensic analysis after being added to the  
14 system, including separate sets of data for all sexual assault kits  
15 in the system statewide and by jurisdiction and for sexual assault  
16 kits added to the system in the reporting period statewide and by  
17 jurisdiction;

18 (f) The average and median length of time for forensic analysis  
19 to be completed on sexual assault kits after being submitted for  
20 analysis, including separate sets of data for all sexual assault kits  
21 in the system statewide and by jurisdiction and for sexual assault  
22 kits added to the system in the reporting period statewide and by  
23 jurisdiction;

24 (g) The total and semiannual number of sexual assault kits  
25 destroyed or removed from the system statewide and by jurisdiction;

26 (h) The total number of sexual assault kits, statewide and by  
27 jurisdiction, where forensic analysis has not been completed and six  
28 months or more have passed since those sexual assault kits were added  
29 to the system; and

30 (i) The total number of sexual assault kits, statewide and by  
31 jurisdiction, where forensic analysis has not been completed and one  
32 year or more has passed since those sexual assault kits were added to  
33 the system.

34 (5) For the purpose of reports under subsection (4) of this  
35 section, a sexual assault kit must be assigned to the jurisdiction  
36 associated with the law enforcement agency anticipated to receive the  
37 sexual assault kit or otherwise (~~in the~~) having custody of the  
38 sexual assault kit.

39 (6) Any public agency or entity, including its officials and  
40 employees, and any hospital and its employees providing services to

1 victims of sexual assault may not be held civilly liable for damages  
2 arising from any release of information or the failure to release  
3 information related to the statewide sexual assault kit tracking  
4 system, so long as the release was without gross negligence.

5 (7) The Washington state patrol shall adopt rules as necessary to  
6 implement this section.

7 **Sec. 5.** RCW 43.101.272 and 2017 c 290 s 3 are each amended to  
8 read as follows:

9 (1) Subject to the availability of amounts appropriated for this  
10 specific purpose, the commission shall provide ongoing specialized,  
11 intensive, and integrative training for persons responsible for  
12 investigating sexual assault cases involving adult victims. The  
13 training must be based on a victim-centered, trauma-informed approach  
14 to responding to sexual assault. Among other subjects, the training  
15 must include content on the neurobiology of trauma and trauma-  
16 informed interviewing, counseling, and investigative techniques.

17 (2) The training must: Be based on research-based practices and  
18 standards; offer participants an opportunity to practice interview  
19 skills and receive feedback from instructors; minimize the trauma of  
20 all persons who are interviewed during abuse investigations; provide  
21 methods of reducing the number of investigative interviews necessary  
22 whenever possible; assure, to the extent possible, that investigative  
23 interviews are thorough, objective, and complete; recognize needs of  
24 special populations; recognize the nature and consequences of  
25 victimization; require investigative interviews to be conducted in a  
26 manner most likely to permit the interviewed persons the maximum  
27 emotional comfort under the circumstances; address record retention  
28 and retrieval; ~~((and))~~ address documentation of investigative  
29 interviews; and educate investigators on the best practices for  
30 notifying victims of the results of forensic analysis of sexual  
31 assault kits and other significant events in the investigative  
32 process, including for active investigations and cold cases.

33 (3) In developing the training, the commission shall seek advice  
34 from the Washington association of sheriffs and police chiefs, the  
35 Washington coalition of sexual assault programs, and experts on  
36 sexual assault and the neurobiology of trauma. The commission shall  
37 consult with the Washington association of prosecuting attorneys in  
38 an effort to design training containing consistent elements for all

1 professionals engaged in interviewing and interacting with sexual  
2 assault victims in the criminal justice system.

3 (4) The commission shall develop the training and begin offering  
4 it by July 1, 2018. Officers assigned to regularly investigate sexual  
5 assault involving adult victims shall complete the training within  
6 one year of being assigned or by July 1, 2020, whichever is later.

7 **Sec. 6.** RCW 70.125.090 and 2015 c 247 s 1 are each amended to  
8 read as follows:

9 (1) When a law enforcement agency receives a sexual assault  
10 examination kit, the law enforcement agency must, within thirty days  
11 of its receipt, submit a request for laboratory examination to the  
12 Washington state patrol crime laboratory for prioritization for  
13 testing by it or another accredited laboratory that holds an  
14 outsourcing agreement with the Washington state patrol if:

15 (a) Consent has been given by the victim; or

16 (b) The victim is a person under the age of eighteen who is not  
17 emancipated pursuant to chapter 13.64 RCW.

18 (2) (~~Subject to available funding,~~) Beginning January 1, 2021,  
19 when the Washington state patrol receives a request for examination  
20 of a sexual assault kit from a law enforcement agency, the Washington  
21 state patrol shall conduct the laboratory examination of the sexual  
22 assault kit, and when appropriate, enter relevant information into  
23 the combined DNA index system, within forty-five days of receipt of  
24 the request. The Washington state patrol crime laboratory must give  
25 priority to the laboratory examination of sexual assault examination  
26 kits at the request of a local law enforcement agency for:

27 (a) Active investigations and cases with impending court dates;

28 (b) Active investigations where public safety is an immediate  
29 concern;

30 (c) Violent crimes investigations, including active sexual  
31 assault investigations;

32 (d) Postconviction cases; and

33 (e) Other crimes' investigations and nonactive investigations,  
34 such as previously unsubmitted older sexual assault kits or recently  
35 collected sexual assault kits that the submitting agency has  
36 determined to be lower priority based on their initial investigation.

37 (3) The failure of a law enforcement agency to submit a request  
38 for laboratory examination, or the failure of the Washington state  
39 patrol to facilitate examination, within the time periods prescribed

1 under this section does not constitute grounds in any criminal  
2 proceeding for challenging the validity of a DNA evidence  
3 association, and any evidence obtained from the sexual assault  
4 examination kit may not be excluded by a court on those grounds.

5 (4) A person accused or convicted of committing a crime against a  
6 victim has no standing to object to any failure to comply with the  
7 requirements of this section, and the failure to comply with the  
8 requirements of this section is not grounds for setting aside the  
9 conviction or sentence.

10 (5) Nothing in this section may be construed to create a private  
11 right of action or claim on the part of any individual, entity, or  
12 agency against any law enforcement agency or any contractor of any  
13 law enforcement agency.

14 (6) This section applies prospectively only and not  
15 retroactively. It only applies to sexual assault examinations  
16 performed on or after July 24, 2015.

17 (7) (a) Until June 30, (~~2018~~) 2022, the Washington state patrol  
18 shall compile the following information related to the sexual assault  
19 examination kits identified in this section and section 7 of this  
20 act:

21 (i) The number of requests for laboratory examination made for  
22 sexual assault examination kits and the law enforcement agencies that  
23 submitted the requests; and

24 (ii) The progress made towards testing the sexual assault  
25 examination kits, including the status of requests for laboratory  
26 examination made by each law enforcement agency.

27 (b) The Washington state patrol shall make recommendations for  
28 increasing the progress on testing any untested sexual assault  
29 examination kits.

30 (c) Beginning in 2015, the Washington state patrol shall report  
31 its findings and recommendations annually to the appropriate  
32 committees of the legislature and the governor by December 1st of  
33 each year.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.125  
35 RCW to read as follows:

36 (1) Law enforcement agencies shall submit requests for forensic  
37 analysis of all sexual assault kits collected prior to July 24, 2015,  
38 and in the possession of the agencies to the Washington state patrol  
39 crime laboratory by October 1, 2019, except submission for forensic

1 analysis is not required when: (a) Forensic analysis has previously  
2 been conducted; (b) there is documentation of an adult victim or  
3 emancipated minor victim expressing that he or she does not want his  
4 or her sexual assault kit submitted for forensic analysis; or (c) a  
5 sexual assault kit is noninvestigatory and held by a law enforcement  
6 agency pursuant to an agreement with a hospital or other medical  
7 provider. The requirements of this subsection apply regardless of the  
8 statute of limitations or the status of any related investigation.

9 (2) The Washington state patrol crime laboratory may consult with  
10 local law enforcement agencies to coordinate the efficient submission  
11 of requests for forensic analysis under this section in conjunction  
12 with the implementation of the statewide tracking system under RCW  
13 43.43.545, provided that all requests are submitted and all required  
14 information is entered into the statewide sexual assault tracking  
15 system by October 1, 2019. The Washington state patrol crime  
16 laboratory shall facilitate the forensic analysis of all sexual  
17 assault kits submitted under this section by December 1, 2020. The  
18 analysis may be conducted by the Washington state patrol laboratory  
19 or an accredited laboratory holding a contract or agreement with the  
20 Washington state patrol. The Washington state patrol shall process  
21 the forensic analysis of sexual assault kits in accordance with the  
22 priorities in RCW 70.125.090(2).

23 (3) The failure of a law enforcement agency to submit a request  
24 for laboratory examination within the time prescribed under this  
25 section does not constitute grounds in any criminal proceeding for  
26 challenging the validity of a DNA evidence association, and any  
27 evidence obtained from the sexual assault kit may not be excluded by  
28 a court on those grounds.

29 (4) A person accused or convicted of committing a crime against a  
30 victim has no standing to object to any failure to comply with the  
31 requirements of this section, and the failure to comply with the  
32 requirements of this section is not grounds for setting aside the  
33 conviction or sentence.

34 (5) Nothing in this section may be construed to create a private  
35 right of action or claim on the part of any individual, entity, or  
36 agency against any law enforcement agency or any contractor of any  
37 law enforcement agency.

38 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.125  
39 RCW to read as follows:

1 (1) Beginning on the effective date of this section through June  
2 30, 2020, untested sexual assault kits may not be disposed of or  
3 otherwise destroyed, and must be adequately preserved for the purpose  
4 of forensic analysis and potential use in criminal investigations.

5 (2) Except as provided in subsection (4) of this section,  
6 unreported sexual assault kits collected prior to the effective date  
7 of this section must be stored by the entity responsible for the  
8 collection or its designee.

9 (3) Except as provided in subsection (4) of this section,  
10 unreported sexual assault kits collected on or after the effective  
11 date of this section must be transferred to and stored by the  
12 appropriate local law enforcement agency or its designee.

13 (4) In lieu of the storage requirements under subsection (2) or  
14 (3) of this section, a collecting entity may enter into an agreement  
15 with a local law enforcement agency or other third party for the  
16 storage of unreported sexual assault kits.

17 (5) For the purposes of this section:

18 (a) "Appropriate local law enforcement agency" refers to the  
19 agency that the collecting entity reasonably believes would have  
20 jurisdiction to investigate the potential report associated with the  
21 sexual assault kit.

22 (b) "Unreported sexual assault kit" means a sexual assault kit  
23 collected from a victim who has consented to the collection of the  
24 sexual assault kit but who has not reported the alleged crime to law  
25 enforcement or otherwise consented to its submission for forensic  
26 analysis.

27 (c) "Untested sexual assault kit" means a sexual assault kit that  
28 has not been submitted for forensic analysis to a forensic laboratory  
29 with combined DNA index system-eligible DNA methodologies. "Untested  
30 sexual assault kits" include unreported sexual assault kits as well  
31 as any untested sexual assault kits associated with a criminal report  
32 or investigation.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.125  
34 RCW to read as follows:

35 (1) In addition to all other rights provided in law, a sexual  
36 assault survivor has the right to:

37 (a) Receive a medical forensic examination at no cost;

38 (b) Consult with a sexual assault survivor's advocate during any  
39 medical evidentiary examination and during any interview by law

1 enforcement officers, prosecuting attorneys, or defense attorneys,  
2 unless an advocate cannot be summoned in a timely manner, and  
3 regardless of whether a survivor has waived the right in a previous  
4 examination or interview;

5 (c) Be informed, upon the request of a survivor, of when the  
6 forensic analysis of his or her sexual assault kit and other related  
7 physical evidence will be or was completed, the results of the  
8 forensic analysis, and whether the analysis yielded a DNA profile and  
9 match, provided that the disclosure is made at an appropriate time so  
10 as to not impede or compromise an ongoing investigation;

11 (d) Receive notice prior to the destruction or disposal of his or  
12 her sexual assault kit;

13 (e) Receive a copy of the police report related to the  
14 investigation without charge; and

15 (f) Review his or her statement before law enforcement refers a  
16 case to the prosecuting attorney.

17 (2) A sexual assault survivor retains all the rights of this  
18 section regardless of whether the survivor agrees to participate in  
19 the criminal justice system and regardless of whether the survivor  
20 agrees to receive a forensic examination to collect evidence.

21 (3) If a survivor is denied any right enumerated in subsection  
22 (1) of this section, he or she may seek an order directing compliance  
23 by the relevant party or parties by filing a petition in the superior  
24 court in the county in which the sexual assault occurred and  
25 providing notice of such petition to the relevant party or parties.  
26 Compliance with the right is the sole remedy available to the  
27 survivor. The court shall expedite consideration of a petition filed  
28 under this subsection.

29 (4) Nothing contained in this section may be construed to provide  
30 grounds for error in favor of a criminal defendant in a criminal  
31 proceeding. Except in the circumstances as provided in subsection (3)  
32 of this section, this section does not grant a new cause of action or  
33 remedy against the state, its political subdivisions, law enforcement  
34 agencies, or prosecuting attorneys. The failure of a person to make a  
35 reasonable effort to protect or adhere to the rights enumerated in  
36 this section may not result in civil liability against that person.  
37 This section does not limit other civil remedies or defenses of the  
38 sexual assault survivor or the offender.

39 (5) For the purposes of this section:

1 (a) "Law enforcement officer" means a general authority  
2 Washington peace officer, as defined in RCW 10.93.020, or any person  
3 employed by a private police agency at a public school as described  
4 in RCW 28A.150.010 or an institution of higher education, as defined  
5 in RCW 28B.10.016.

6 (b) "Sexual assault survivor" means any person who is a victim,  
7 as defined in RCW 7.69.020, of sexual assault. However, if a victim  
8 is incapacitated, deceased, or a minor, sexual assault survivor also  
9 includes any lawful representative of the victim, including a parent,  
10 guardian, spouse, or other designated representative, unless the  
11 person is an alleged perpetrator or suspect.

12 (c) "Sexual assault survivor's advocate" means any person who is  
13 defined in RCW 5.60.060 as a sexual assault advocate, or a crime  
14 victim advocate.

15 NEW SECTION. **Sec. 10.** Sections 1, 2, and 8 of this act are  
16 necessary for the immediate preservation of the public peace, health,  
17 or safety, or support of the state government and its existing public  
18 institutions, and take effect immediately.

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